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No. 1] NEW DELHI, MONDAY, FEBRUARY 9, 1959/MAGHA 20, 1880

LOK SABHA

The following Bill was introduced in Lok Sabha on the 9th February, 1959:—

*BILL No. 3 OF 1959

A Bill further to amend the Indian Income-tax Act, 1922.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. This Act may be called the Indian Income-tax (Amendment) Act, 1959. Short title.

11 of 1922. 5 2. In section 34 of the Indian Income-tax Act, 1922 (hereinafter referred to as the principal Act), after sub-section (3), the following sub-section shall be inserted, namely:— Amendment of section 34.

10 " (4) A notice under clause (a) of sub-section (1) may be issued at any time notwithstanding that at the time of the issue of the notice the period of eight years specified in that sub-section before its amendment by clause (a) of section 18 of the Finance Act, 1956, had expired in respect of the year to which the notice relates." 18 of 1956.

15 3. After section 49E of the principal Act, the following section shall be inserted, namely:—

"49EE. (1) Where in pursuance of any settlement relating to the assessment, re-assessment or case of any person made or purported to have been made before the 17th day of January, 1959, whether under this Act or otherwise, any sum of money

Insertion of new section 49EE.

Power to set off in certain cases moneys in the possession of Government

*The President has, in pursuance of clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to Lok Sabha the introduction and consideration of the Bill.

(1)

against tax
found due
under assess-
ments etc.,
thereafter to
be made.

or any security for the payment of any sum of money has been paid or furnished by him, or on his behalf by any other person, no claim for the refund of any sum so paid or for the return of any security so furnished shall be entertained or allowed on the ground that the settlement is invalid—

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(a) in any case where a notice under section 34 in respect of the income, profits or gains relating to the settlement aforesaid has been issued before the 17th day of January, 1959, and

(b) in any other case, for a period of two years from 10 that date and, if during the period of the said two years any notice under section 34 is issued, pending the completion of the assessment, re-assessment or settlement in pursuance of such notice;

and, accordingly, no application, suit or other legal proceeding 15 shall lie for the refund of any such sum of money or the return of any such security—

(i) pending the completion of the assessment, re-assessment or settlement in pursuance of the notice referred to in clause (a); or

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(ii) during the period of two years referred to in clause (b) or pending the completion of the assessment, re-assessment or settlement in pursuance of the notice referred to in that clause.

(2) The Income-tax Officer, Appellate Assistant Commis- 25 sioner or the Commissioner, as the case may be, may set off the amount referred to in sub-section (1) or the amount of the security referred to in that sub-section which may be realised for the purpose against the tax, interest, penalty or any other sum which may become payable by reason of any assessment, 30 re-assessment or settlement made in pursuance of the notice referred to in clause (a) of that sub-section or in pursuance of any such notice issued within the period of two years referred to in clause (b) of that sub-section.

(3) In computing the period of limitation prescribed for any 35 legal proceeding in relation to any such sum or security aforesaid, the time during which any such proceeding cannot be instituted by reason of the provisions contained in sub-section (1) shall be excluded.”

4. No notice issued under clause (a) of sub-section (1) of section 34 of the principal Act at any time before the commencement of this Act and no assessment, re-assessment or settlement made or other proceeding taken in consequence of such notice shall be called in question in any court, tribunal or other authority merely on the ground that at the time the notice was issued or at the time the assessment or re-assessment was made, the time within which such notice should have been issued or the assessment or re-assessment should have been made under that section as in force before its amendment by clause (a) of section 18 of the Finance Act, 1956, had expired.

Saving of notices, assessments, etc., in certain cases.

13 of 1956.

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1 of 1959.

5. (1) The Indian Income-tax (Amendment) Ordinance, 1959, is hereby repealed.

Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notice issued) in the exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

The objects of the Bill are two-fold:—

(i) to make it clear that section 34, as amended by section 18 of the Finance Act, 1956, applies to all escaped incomes relating to any year commencing from the year ending on 31st March, 1941;

(ii) to enable the Government to set off the amounts already paid by assessees in pursuance of settlements against taxes found due in pursuance of proceedings to be completed hereafter.

2. Section 34(1) (a) of the Income-tax Act as it stood prior to its amendment by section 18 of the Finance Act, 1956 (18 of 1956) permitted assessment or re-assessment as contemplated in clause (a) of sub-section (1) of section 34 within a period of eight years from the assessment year to which such assessment or re-assessment related. This time limit was removed by an amendment in 1956 which empowered the Income-tax Department to re-open assessments in cases of escapement amounting to rupees one lakh or more for any back year without limitation of time, subject only to the condition that the assessment reopened did not relate to any year prior to the year ending on 31st March, 1941. However, it has recently been held by the Calcutta High Court that in the absence of an express provision to that effect, the amended section cannot be applied to assessments which had become more than eight years old by 1st April, 1956. The present Bill seeks to place this matter beyond doubt by an amendment to section 34 of the Act.

3. The Supreme Court has, by a judgment delivered recently, held that the proceedings completed under the Taxation on Income (Investigation Commission) Act, 1947 on or after the 26th January, 1950 resulting in settlements under section 8A of the said Act offend article 14 of the Constitution. It is now proposed to re-open these cases under the ordinary law. Pending completion of the fresh proceedings, the Bill provides that no claim for refunds shall be entertained or allowed and that the amounts already paid shall be available for being set off against any sums which may be found due as a result of the fresh proceedings. Any right which the assessee may have in regard to the sums so paid is, however, sought to be protected by sub-clause (3) of clause 3 of the Bill.

4. An Ordinance (No. 1 of 1959) was promulgated by the President on the 17th January, 1959, amending the Income-tax Act on the above lines. This Bill replaces that Ordinance.

MORARJI DESAI

NEW DELHI;

The 30th January, 1959.

FINANCIAL MEMORANDUM

As explained in the Statement of Objects and Reasons, if this Bill is passed into law, the Income Tax Department will have to take action under section 34 of the Income-tax Act to re-assess the incomes in all the cases of settlement affected by the recent Supreme Court's judgment. There is already a special organisation called the Directorate of Special Investigation to which the disposal of Commission cases invalidated by the previous judgments of the Supreme Court has been entrusted. For taking over the fresh cases to be re-assessed now, it will be necessary to add to the existing staff of the Directorate. The additional expenditure on the extra staff is estimated at Rs. 4.81 lakhs.

I.—VOLUME OF WORK

Number of cases to be assessed is 516 involving 7,224 assessments for both Income-tax and Excess Profits Tax.

II.—REQUIREMENT OF PERSONNEL AND FINANCE

A.—OFFICERS		No.	Cost
			Rs.
1. Inspecting Assistant Commissioners	3	$3 \times 1200 \times 12$	43,200
2. Income-tax Officers (Class I, Grade I)	10	$10 \times 800 \times 12$	96,000
B.—STAFF			
3. Inspectors	6	$6 \times 250 \times 12$	18,000
4. Supervisors (Grade I)	3	$3 \times 350 \times 12$	12,600
5. Head Clerks	5	$5 \times 250 \times 12$	15,000
6. Stenographers	3	$3 \times 150 \times 12$	5,400
7. Steno-typists	10	$10 \times 140 \times 12$	16,800
8. Upper Division Clerks	48	$48 \times 150 \times 12$	86,400
9. Lower Division Clerks	19	$19 \times 120 \times 12$	27,360
			<hr/>
			Rs. 3,20,760
			<hr/>
			say . . . Rs. 3,21,000
C.—INCIDENTAL EXPENDITURE :			Rs. 1,60,000
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TOTAL			Rs. 4,81,000
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M. N. KAUL,
Secretary.

CORRIGENDA

In the Gazette of India Extraordinary, Part II—Section 2,—

1. No. 49, dated the 27th November, 1958:—

- (i) Page 1161, line 25 from the top *for* “lease” *read* “base”.
- (ii) Page 1166, line 7 from the top *insert* a rule under “35” and line 10 from the top *insert* a rule under “32”.
- (iii) Page 1190, marginal heading to clause 43, *for* “Finality order” *read* “Finality of order”.
- (iv) Page 1198, *insert* a side-line against “7” and “8”.

2. No. 52, dated the 8th December, 1958:—

- (i) Page 1233, line 6 from the top *for* “42 1956” *read* “42 of 1956” as marginal reference.
- (ii) Page 1234, line 13 from the top *for* “1 1956” *read* “1 of 1956” as marginal reference.

3. No. 53, dated the 10th December, 1958, page 1249, marginal heading to clause 12 *for* “43” *read* “34”.

4. No. 54, dated the 12th December, 1958, page 1261, line 25 from the top, *for* “Police” *read* “Public”.

5. No. 57, dated the 17th December, 1958:—

- (i) Page 1300, marginal heading to clause 16, *for* “531” *read* “53J”.
- (ii) Page 1301, marginal heading to 53D, *for* “Summary” *read* “Summary dismissal of complaint”.

